



F. MARTIN-MORA, S.L.

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SURVEY REPORT No. 2006/718 Y. Ref: 0071452

I, **Captain Federico Martín-Mora**, Marine & Cargo Surveyor, at the request of **MACANDREWS S.A.**, and on behalf of **A I Marine Adjusters, Inc.**, 175 Water St., New York, NY, USA, proceeded on 17th October 2006 to **Bristol Myers Squibb, S.L.** in **Esplugas de Llobregat, Barcelona**, in order to inspect a shipment of 12 pallets containing cartons of pharmaceutical products which had been reported to be damaged and he reports as follows:

APPLICANT: **MACANDREWS S.A.**, Barcelona on behalf of
A I MARINE ADJUSTERS

SURVEY REFERENCE: Request our intervention in order to inspect 12 pallets containing cartons of bottles of Megace oral suspension

DATE OF REQUEST: 11th October, 2006

DATE OF SURVEY: 17th October, 2006

PLACE OF SURVEY: **Bristol Myers Squibb S.L.**
Josep Anselm Clave, 95-101
Esplugas de Llobregat, Barcelona

COMMODITY: 1392 cartons each containing 12 bottles of Megace oral suspension. Total No. bottles 16,704

Invoice value 591,025.73 US\$ CIP Barcelona



F. MARTIN-MORA, S.L.
MARINE & CARGO SURVEYORS
COMISARIOS DE AVERIAS

Report N° 2006/718

Page N° 2

PACKING:

240 mg Megace suspension in white plastic flask with sealed screw top. 12 flasks placed in carton box which was sealed and marked. Boxes placed on wooden pallet and all wrapped in transparent plastic film.

According to original packing list, 9 pallets contained 150 cartons and 3 pallets contained 14, 17 and 11 cartons respectively.

This packing is considered adequate for transport, always subject to correct handling and stowage.

MARKS:

Each carton was marked with the following:

For export

12 unlabeled 240 ml (8 Fl oz) bottles

MEGESTROL ACETATE

Store at controlled room temperature and dispense in a tight container

15°C-25°C (59°F – 77°F)

Protect from heat

THIS SIDE UP

HANDLE WITH CARE

CONVEYANCE:

According to MAWB No. 006-44719846 dated in New York, USA on 21st September, 2006 the 12 pallets were to be shipped on flight No. DL94 destination Barcelona, leaving New York on 22nd September, 2006.

According to the Air Cargo Tracking document the shipment arrived at Barcelona Airport on 3 different passenger flights (DAL094/24 DAL094/25 and DAL094/27) under copies of the MAWB stating "PART SHIPMENT"

6 pcs. on 24th September

6 pcs. on 25th September

1 pc. at 09:44 hrs on 27th September

1pc at 12:46 hrs on 27th September.



F. MARTIN-MORA, S.L.
MARINE & CARGO SURVEYORS
COMISARIOS DE AVERIAS

Report N° 2006/718

Page N° 3

THIS IS TO CERTIFY THAT:

After receiving the petition for a survey, the Undersigned contacted the Receivers, Bristol Myers, and it was arranged that a survey would be carried out on their premises on October 17th.

The undersigned proceeded on 17th October, 2006 to Bristol Myers, where he was met by Mr Santiago Palanques, Plant manager, Juan Martinez Quality Control Manager and Ms Isabel Vaquero Purchase manager. The Undersigned was informed that the shipments, on arrival at Barcelona Airport, had been discharged by the handlers, Worldwide Flight Services, who had filled in a damage report stating the following:

"Packaging broken, seals broken. Detected on arrival"

The whole shipment was then sent to Forwarding Agents, Sli Service Logistics who delivered it to the Receivers, Bristol Myer in Esplugas de Llobregat on 29th September.

On 4th October, Bristol-Myer Squibb, S.L. sent letter of protest to USLI S.A. (Forwarding Agents) in Barbera del Valles, Barcelona Province.

During the inspection together with technical staff of Bristol Myer Squibb S.L.. the Undersigned observed that pallets had been dismantled with the seals being broken. After a careful inspection the following result was found:

- 4 pallets, (Nos. 4,9,10 & 11) containing a total of 600 boxes, were found to be in good condition and with original packing
- Carton boxes were crushed and stained
- Some of the boxes in the pallets were the wrong side up
- Soil was found on some boxes
- Different types of pallets, some orange, had been used.
- One box, (pallet No. 1) which should have contained 12 bottles of MEGACE Oral Suspension, was completely empty. This empty box appeared crushed within the pallet.

The marks on each carton box state clearly: *"THIS SIDE UP. HANDLE WITH CARE"*

Quality Control of the Receivers informed the Undersigned that they intended to refuse the whole shipment stating that in the condition in which the shipment had arrived, they could not guarantee effectivity and security until expiry date nor was the shipment in good condition to be marketed. However, they informed the Undersigned that they would be issuing a report in order to justify their rejection.



F. MARTIN-MORA, S.L.
MARINE & CARGO SURVEYORS
COMISARIOS DE AVERIAS

Report N° 2006/718

Page N° 4

In the opinion of the Undersigned, this shipment was to be shipped as freight on freight carrier. However, in New York the shipment, for unknown reasons, was loaded in the hold on passenger flights. As the hold for passenger flights is smaller than freight carriers, the pallets were dismantled so that they would fit in the free spaces in the hold. Thus, the MAWB with part shipment stamp. The marks on the boxes clearly state "THIS WAY UP" which was not heeded as boxes arrived wrong side up. Also temperature conditions for the product are clearly stated which are not found in the hold of passenger aircraft.

On 27th October, Quality Control of the Receivers sent their Quality Report, together with photographs of the shipment on its arrival at Barcelona Airport, in which they formally reject the whole shipment, including 4 pallets, (Nos. 4,9,10 & 11) containing a total of 600 boxes which were found to be in good condition and with original packing, due to the fact that the Megace Oral Suspension is a pharmaceutical product for human use and must be in perfect condition. Pharmaceutical products have strict Quality Control and this shipment was apparently subjected to temperatures and handling which are adverse to those clearly marked on the cartons. This, and the fact that cartons were upside down and dirty soil was found on the pallets is sufficient to have affected the pharmaceutical product and thus be completely unacceptable to Quality Control of the Receivers. Quality Control informed the Undersigned that there only needs to be one damaged item in a shipment of pharmaceutical products for the whole shipment to be rejected following quality control rules.

EXTENT OF DAMAGE:

According to commercial invoice No. QP8241 issued by Bristol Myers Squibb Company, Plainsboro, NJ , USA on 21st September, 2006, the price per flask of Megace Oral Suspension is 35 US\$

According to the inspection, 600 cartons containing a total of 7,200 flasks are in sound condition, as the pallets have the original packing and do not appear to have been dismantled.

The remaining 791 cartons containing a total of 9,492 flasks arrived with evident signs of having had the pallets dismantled and the cartons redistributed. 1 carton, which should have contained a total of 12 flasks, was completely empty and the 12 flasks missing.



F. MARTIN-MORA, S.L.

MARINE & CARGO SURVEYORS
COMISARIOS DE AVERIAS

Report N° 2006/718

Page N° 5

CAUSE OF DAMAGE:

In the opinion of the Undersigned and based on the inspection and documents supplied, the damage to the shipment of 1392 cartons of Megace Oral Suspension has been caused by dismantling of the pallets in non adequate warehouse, apparently on open esplanade due to the fact that most of the boxes showed evidence of soil and plants. Furthermore, the instructions stated on each carton were not respected, as boxes were upside down and crushed. The dismantling of the whole shipment was presumably done in order to fit the cartons into hold of passenger flights for transport to Barcelona. As there is no exception noted on the MAWB, the shipment was delivered in good condition to Delta Cargo in JFK Airport in New York. These 1392 cartons contain a pharmaceutical product which is for human use and must adhere to specific conditions as marked on each carton.

This Survey Report, consisting of 10 sheets, includes a photographic dossier containing 10 photographs taken by the Surveyor during the inspection has been carried out to the best of ability and all facts as stated above are to the best of our knowledge true and correct.

Barcelona at 12th December, 2006


Capt. F. Martin-Mora FNI



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C.I.F. B-43248046

Comisarios de Averías

Attached

- MAWB and Air Cargo Tracking (6 sheets)
- Commercial invoice and packing list (2 sheets)
- Certificate of Origin
- Damage Report from World Flight Services
- Analysis at origin (8 sheets)
- Quality Control statement with photographs (2 sheets)